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Letter dated 27 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

Corrigendum

Appendices I and II

Replace appendices I and II with the attached text.

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Appendix I

Aide-mémoire

1. Need for cooperation in the fight against terrorism

The horror and indignation elicited by the attacks of 11 September 2001 have induced the international community to undertake a thorough assessment of the scope and gravity of the scourge of terrorism. Mindful now of the global nature of that scourge, the international community has declared its determination to confront it collectively, in a concerted and effective manner.

Resolution 1373, adopted by the Security Council on 28 September 2001, reflects this political will by setting out the elements of an organized response to this threat which hangs over international peace and security.

In that resolution, the Security Council expressly asks States to strengthen and adapt their means of combating terrorism to its transnational character, by engaging in cooperation without restrictions in order to eradicate terrorism around the world.

All countries are thus challenged, for only joint and resolute action by all States can overcome transnational terrorism.

Because the international community as a whole is vulnerable to the scourge of terrorism, it must respond urgently to the need for a more concerted management of the risk posed by this phenomenon, which threatens the foundations of all societies and the sovereignty of all States. The attacks of 11 September were the result of a disastrous under-estimation of its dangers and capacity to do harm.

As a victim of terrorism, to which it opposes an unrelenting fight, paying a very high price for its contribution to international peace and security, Algeria considers itself legitimately entitled to expect from its principal partners a firm commitment on an operational level to a clearly recognized joint effort to eliminate this scourge and ensure continual monitoring of the threat which it poses.

Algeria also hopes that no religious, political or ideological justification will be invoked for terrorist acts, which are unacceptable in all places and at all times, and that no extenuating circumstances will be accorded the perpetrators, co-perpetrators, sponsors and abettors of such criminal acts when they are perpetrated in Algeria.

Having acted in the framework of legality and the principles of the rule of law, Algeria has, over the past decade, continually alerted international opinion to the urgency of such an effort. It has constantly drawn the attention of the international community to the following:

- The threats posed by the staging points and networks that serve as rear bases for terrorists acting under the cover of charitable organizations and associations;
- The multifaceted support provided from outside the country, with complete impunity, for the terrorist actions of armed groups;
- The permissive and lenient attitudes on the part of countries which have hosted and/or granted refugee status to militants.

Algeria has advocated regulatory and legislative measures and the adoption of various judicial conventions for the prevention and punishment of planning and support for acts of terrorism and/or related to terrorist activities by networks entrenched in other countries and directed against the interests and security of any other State or States.

The proposals put forward by Algeria envisaged mainly:

1. Criminalization of advocacy and instigation of terrorist acts directed against the interests and security of all States through any information or communication media by one or more persons living, residing or passing through the territory of any other State or States;

2. Prohibition and criminalization of the printing, publication and dissemination by such persons of any bulletins, announcements or pamphlets advocating criminal terrorist attacks on the interests and security of any other State or States;

3. Prohibition of fund-raising by persons acting under cover of welfare associations or charitable organizations for the financing of terrorist activities directed against the interests and security of any other State;

4. Stricter checks on the acquisition of movable and/or immovable property in the territory of any State that could serve as a cover or haven for terrorist attacks on the interests and security of any other State;

5. Freezing and confiscation of financial assets intended for the financing of terrorist attacks on the interests and security of States.

The burning topicality of these proposals attests to their validity, relevance and legitimacy. The mixed reactions, indeed, the indifference which they have elicited in the past can no longer be accepted. The threat of terrorism must be perceived in the light of its global nature and its full transboundary implications, particularly in the countries where it has established its support networks, strong points and staging areas. The response must be adapted to the scope and transnational nature of this phenomenon, which has shown the magnitude of its capacity to strike anywhere. The results of this international battle can only be diminished in the medium and long term if we persist in thinking of it as a local or national phenomenon peculiar to the country which it targets directly.

To be sure, the terrorist threat to the security of all States is now perceived more clearly, and it is encouraging to note that, since 11 September 2001, several countries have mobilized against the terrorist support networks entrenched in their territories. Nevertheless, if they are to have a lasting impact, the efforts undertaken must be pursued in the framework of more forthright cooperation with countries like Algeria, which are directly targeted by these same networks. Such efforts likewise require a transparent handling of the phenomenon.

This obligation of transparency pertains above all to the goals of the collective fight against terrorism, which are clear, since what is at issue is eradicating terror, regardless of its motives and forms. Such transparency must be expressed by bringing to justice the perpetrators, instigators, sponsors, abettors, advocates and beneficiaries of acts of terror, which are designed to undermine the stability and security of institutions, property and persons.

There are many proven examples of activities linked to terrorism that have been carried out by Algerian nationals living and acting with complete legality in countries which grant them asylum. These activities are the work of individuals who have been found guilty of terrorist acts and who are neither interfered with nor warned against calling for the deaths of Algerian officials and citizens, advocating terrorism in Algeria, publicly raising funds on behalf of terrorist groups and claiming credit, in their subversive publications, for acts and attacks committed in Algeria. In a similar vein, is it necessary to point out that the Algerian terrorist groups known as the Groupe islamiste armé and the Groupe salafiste pour la prédication et le combat, who use such staging areas, have been identified among the terrorist organizations affiliated with Osama bin Laden's Al-Qa'idah group?

In addition to genuine cooperation between judicial institutions, anti-terrorist cooperation requires regular and systematic exchanges of information in real time.

There is a need to extend, especially to countries victims of terrorism, the principle of "spontaneous communication of information" in effect among the States members of the European Union. Data gathered during investigations in a country should thus be transmitted automatically to the foreign authority concerned whenever they are useful in its own investigations.

In terms of principles, cooperation in the fight against terrorism should respond to the need for acts of terror to be handled in such a way as to avoid their justification, manipulation and exploitation for any purpose whatsoever; this makes automatic referral to the judicially competent security services an urgent necessity. Moreover, a State which so requests must be provided on a continual basis with all information on acts of terror directed against it.

The handling of terrorist acts must further be reflected in an effective commitment to satisfying, within reasonable periods, requests for judicial, technical and material assistance.

The principle of systematic extradition to the State where the act of terror was committed must be adopted as a deterrent. It should be emphasized in this regard that Security Council resolution 1373 (2001) states very explicitly that States may no longer invoke claims of "political motivation" as grounds for refusing requests for the extradition of persons implicated in terrorist acts.

Algeria, concerned with meeting the requirements for an effective international response to the terrorist threat, has submitted the following proposals for consideration by the Security Council Counter-Terrorism Committee.

2. Elements of cooperation in the fight against terrorism: definitions, principles, measures to be adopted and follow-up mechanisms

"Terrorist act" refers to any individual or collective act, regardless of the place, manner and motive for committing it, and its perpetrators, instigators or sponsors, abettors, planners, advocates and beneficiaries, that has been designed and calculated to cause terror in the general public or a specific category of persons and to undermine the constitutional order of States, their territorial integrity, and the security of property and persons.

The notion of instigator or sponsor applies to any individual, group of individuals, organization or State that directly or indirectly instigates, foments,

encourages, facilitates or organizes the commission of acts of terror and/or designates their target.

"Advocate" means any individual, group of individuals, organization or State that directly or indirectly tolerates, justifies, legitimizes or claims credit for the commission of acts of terror and/or affords them favourable propaganda by any means whatsoever.

The term "support" applies to any type of direct or indirect contribution provided by an individual, a group of individuals, an organization or a State that facilitates the commission of an act of terror or creates the conditions for it by:

- Collecting information on the targeted persons or institutions;
- Recruiting, training, sheltering and supplying food;
- Counterfeiting or providing identity and travel documents, illegally crossing borders and any other means of movement and liaison;
- Supplying arms, ammunition, explosives and other devices capable of causing death or injury.

In order to provide a specific context for their cooperation, the partners must:

- Place perpetrators, advocates, abettors, instigators or sponsors and beneficiaries of terrorist acts on an equal footing in terms of criminal responsibility;
- Establish terrorist acts as particularly serious criminal offences in domestic laws in all instances and provide a scale of punishments duly reflecting the seriousness of such acts;
- Entrust the judicially competent security services with responsibility for handling terrorist actions and develop cooperation among them;
- Ensure, before granting asylum or refugee status, that the asylum-seeker is not being prosecuted for one or more acts mentioned in the categories defined above;
- Update and adapt domestic legislation and regulations so as to incorporate the decisions taken and the conventions adopted by the United Nations relating to terrorist acts, their prevention, suppression and eradication, and judicial assistance and international cooperation in that area.

The following urgent measures should also be adopted:

- Neutralization of all the individuals, groups and organizations referred to above that have been identified and located in the territory of any of the partner States;
- Sequestration of the financial assets and movable and immovable property of the individuals, groups and organizations implicated;
- Seizure of the means of publication and dissemination and banning of all publications advocating or claiming credit for the commission of terrorist acts;

- Suspension of all asylum-granting procedures until the status of the applicants has been clarified, in particular, by the authorities of the countries of which they are nationals;
- Establishment of a database, open to all partner States, on the individuals, groups and organizations referred to in the above definitions;
- Lifting of banking secrecy for the individuals, groups and organizations referred to in the above definitions;
- Banning of fund-raising not authorized by the governmental authorities;
- Strict monitoring of funds belonging to individuals, enterprises or organizations suspected of being financing sources for groups which practice terror;
- Entrusting banks and financial institutions with responsibility for stricter monitoring of capital movements suspected of having links to terrorism;
- Establishment of a database on financing sources for terrorist groups;
- Supplying on an emergency basis to States taking action against terrorist groups of monitoring, surveillance and border detection equipment, together with specific intervention, protection, detection and neutralization equipment and the means required for the preparation of forgery-proof travel and identity documents.

The following additional measures are needed:

- Organizing public awareness-raising campaigns concerning terrorist acts. International organizations, including those active in the field of human rights, should be asked to contribute;
- Barring access to international conference sites to any individual, group of individuals or organization directly or indirectly linked to terrorist acts;
- Recognizing the validity and the admissibility by any State anti-terrorism partner of the judicial acts drawn up by other partner States or materials transmitted by them;
- Establishing, under the auspices of the United Nations, of a follow-up and coordination mechanism entrusted with:
  - Managing the databases envisaged above;
  - Drawing up and enforcing confiscation procedures;
  - Implementing periodic programmes of exchanges and consultation relating to information and data on terrorist groups, judicial handling, the updating of domestic legislation and regulations and exchanges of experience in the fight against terrorism;
  - Providing follow-up of the joint operations carried out by States at the bilateral and multilateral levels and evaluating the effectiveness of international cooperation in the fight against terrorism;
  - Organizing meetings of judicial police and border control experts on a biannual basis, in addition to the bilateral or multilateral meetings

organized in accordance with the needs and exigencies of the fight against terrorist groups;

- Preparing and implementing specialized training programmes for anti-terrorism personnel.

Conclusion

International peace and security are indivisible. In view of the nature, scope, basis and goals of international terrorism, Algeria calls upon its partners to contribute to combating this scourge by implementing in their countries, in a fully transparent and impartial manner, but also in good faith, the appropriate legislative and regulatory measures to criminalize terrorist acts and activities and to punish all individuals found guilty of such acts or who advocate, encourage, instigate or finance such acts or harbour their perpetrators.

Countries which continue to harbour terrorist individuals or groups directly and personally implicated in massacres of civilian populations and the destruction of public and private goods and property in Algeria must display firmness and severity in the implementation of the appropriate legislation to prevent and punish, in all places and circumstances, all terrorist activities or those linked to terrorism.

In accordance with resolution 1373 (2001), no political motivations should be invoked as grounds for refusing extradition requests made by States. The implementation of this resolution is clearly aimed at depriving terrorist groups and their networks of the resources at their disposal and placing them in a situation of irregularity and breach of the law in countries which grant or continue to grant them political asylum. Within the spirit and letter of this resolution, perpetrators of terrorist acts can now no longer claim the status of political refugees, for no motivations of this nature should be invoked as grounds for refusing to bring them to justice or refusing extradition requests from countries which are their victims.

In any event, the principle of international criminal law "prosecute or extradite", which is incorporated into the multilateral anti-terrorism conventions, should be implemented universally so that no alleged terrorist can be assured of impunity in any "safe haven".

Within this framework, it is imperative that the protection of human rights, which is a sacred task for the community of nations, not be invoked in an abusive manner as justification for terrorist acts whose perpetrators are liable to criminal penalties for being responsible for denying those same rights. Algeria warns against any such policy and calls for an indiscriminate implementation, in good faith, of human rights protection norms and for respect for the prerogatives of States with regard to guaranteeing the security of persons and property.

Appendix II

Status of legislative and regulatory texts on preventing and combating terrorism

- Presidential Decree No. 2000-444 of 23 December 2000 constituting ratification, with reservation, of the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly on 15 December 1997;
- Ordinance No. 96-22 of 9 July 1996 on the suppression of violations of the legislation and regulations on exchanges and movements of capital into and out of the country;
- Presidential Decree No. 98-413 of 7 December 1998 constituting ratification of the Arab Convention for the Suppression of Terrorism, signed in Cairo on 22 April 1998;
- Executive Decree No. 99-47 of 13 February 1999 concerning the compensation of natural persons and their heirs for bodily or material harm sustained as a result of acts of terrorism or accidents occurring in the context of the fight against terrorism;
- Presidential Decree No. 2000-450 of 23 December 2000 constituting accession to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, adopted in London, Moscow and Washington on 10 April 1972;
- Ordinance No. 95-10 of 25 February 1995 amending and supplementing Ordinance No. 66-155 of 8 June 1966 enacting the Code of Penal Procedure;
- Executive Decree No. 99-142 of 20 July 1999 specifying the modalities for the implementation of article 8 of Act No. 99-08 of 13 July 1999 concerning the restoration of civil peace;
- Act No. 90-15 of 14 July 1990 amending and supplementing Ordinance No. 66-156 of 8 June 1996 enacting the Penal Code;
- Act No. 88-26 of 12 July 1988 amending and supplementing Ordinance No. 66-156 of 8 June 1996 enacting the Penal Code;
- Act No. 90-15 of 14 July 1990 amending and supplementing Ordinance No. 66-156 of 8 June 1996 enacting the Penal Code, p. 821 (No. JORA:029 of 18 July 1990);
- Ordinance No. 95-11 of 25 February 1995 amending and supplementing Ordinance No. 66-156 of 8 June 1966 enacting the Penal Code;
- Legislative Decree No. 93-14 of 4 December 1993 amending and supplementing Ordinance No. 66-155 of 8 June 1966 enacting the Code of Penal Procedure, p. 5 (No. JORA:080 of 5 December 1993);
- Legislative Decree No. 93-06 of 19 April 1993 amending and supplementing Ordinance No. 66-155 of 8 June 1996 enacting the Code of Penal Procedure, p. 5 (No. JORA:025 of 25 April 1993);

- Ordinance No. 95-10 of 25 February 1995 amending and supplementing Ordinance No. 66-155 of 8 June 1966 enacting the Code of Penal Procedure, p. 3 (No. JORA:011 of 1 March 1995);

- Act No. 90-24 of 18 August 1990 supplementing Ordinance No. 66-155 of 8 June 1966 enacting the Code of Penal Procedure, p. 994 (No. JORA:036 of 22 August 1990);

- Decree of 7 November 1995 establishing the practical operating and accounting modalities of special allocation account No. 302-069 entitled "Special National Solidarity Fund", p. 2 (No. JORA:071 of 22 November 1995);

- Ordinance No. 95-12 of 25 February 1995 enacting clemency measures, p. 9 (No. JORA:011 of 1 March 1995) (abrogated only);

- Act No. 99-08 of 13 July 1999 concerning the restoration of civil peace, p. 3 (No. JORA:046 of 13 July 1999);

- Legislative Decree No. 93-05 of 19 April 1993 amending and supplementing Legislative Decree No. 92-03 of 30 September 1992 concerning the suppression of terrorist subsidies;

- Executive Decree No. 04-87 of 10 April 1994 amending the provisions of Executive Decree No. 93-218 of 27 September 1993 enacting the statute of the communal police force;

- Executive Decree No. 94-91 of 10 April 1994 establishing the conditions for compensating victims of terrorist acts and the operation of the compensation fund;

- Act No. 01-08 of 26 June 2001 amending and supplementing the Ordinance enacting the Code of Penal Procedure.